

CITY OF BELLEVUE  
CITY COUNCIL

Summary Minutes of Regular Session

August 2, 2004  
8:00 p.m.

Council Chambers  
Bellevue, Washington

PRESENT: Mayor Marshall, Deputy Mayor Noble, and Councilmembers Balducci, Chelminiak, Davidson, Degginger, and Lee

ABSENT: None.

1. Call to Order

The meeting was called to order at 8:02 p.m. by Mayor Marshall, who presided.

2. Roll Call, Flag Salute

Upon roll call by the Deputy City Clerk, all Councilmembers were present. The Overlake Composite Civil Air Patrol Squadron led the flag salute.

(a) Board and Commission Recognition

Mayor Marshall explained that Board and Commission members are typically honored during the last Council meeting before summer recess. Eight retiring members, representing 42 years of volunteer service for the community, will be recognized tonight.

Planning and Community Development Director Matt Terry introduced and thanked Ken Schiring, who served on the Planning Commission from July 1996 until May 2004. Mr. Terry introduced Margaret Lowe, who also completed an eight-year term in May. She served two years as Chair and two years as Vice Chair on the Arts Commission. Mr. Terry thanked her for her service including her recent involvement on the Cultural Compass committee. Mr. Terry introduced and thanked Robin Avni, who served on the Arts Commission from 2002 to 2004 and recently moved to Issaquah.

Parks and Community Services Director Patrick Foran thanked Georgina Sierra for serving a four-year term on the Parks and Community Services Board and Sherry Grindeland for her six years of service on the Youth Link Board.

Transportation Director Goran Sparman introduced and thanked Zee Straight-Weiss for her service on the Transportation Commission from July 1996 to May 2004. She served as both

Vice Chair and Chair during her eight-year term. Mr. Sparrman thanked Steve Coleman, who was not in attendance, for his four years of service on the Commission.

Mayor Marshall thanked the retiring Board and Commission members for their public service.

(b) Cultural Compass Steering Committee

Mary Pat Byrne, Arts Specialist, introduced the following members of the Cultural Compass Steering Committee in attendance:

Ann Oxrieder, Co-Chair  
Lynne Allison, Arts Commission Chair  
Robin Avni  
Cesar Caycedo  
Gowri Jagannath  
Valentina Kiselev, Arts Commission member  
Margaret Lowe  
Rose Mayfield  
Bill Ptacek, Arts Commission member  
Lin Salisbury  
Lesley Stuart  
Cece Teddy

A total of 31 residents served on the Cultural Compass committee. Mayor Marshall noted the Cultural Compass Plan was presented to Council last week. Council looks forward to discussing it with the Arts Commission in September. She thanked committee members for their hard work and dedication and presented them with certificates of appreciation.

(c) Recognition of Kent Chaplin, Chaplin Motors

Major Bill Thomas thanked and presented a plaque to Kent Chaplin, owner of Chaplin Motors, for his many years of support to the DARE program. Beginning in 1993, Chaplin Motors provided a Mazda van to be used by the DARE program. In 1998, they provided a VW Beetle, which later was reproduced as a Matchbox car and has become a collectors item. Gale Caroon, office manager for Chaplin Motors, serves as treasurer of the Bellevue Police Department DARE Advisory Board.

(d) Introduction of Yao Delegate and Student Exchange Participants

Hugh Burleson, Bellevue Sister Cities Association, introduced the staff exchange delegate from Yao, Japan as well as four student exchange participants, two from Bellevue and two from Yao.

(e) 24-Hour Relay Challenge Report

Helena Stephens, Teen Services Program Administrator, introduced relay directors from the sixth annual 24-Hour Relay Challenge held in Downtown Park on June 19 and 20:

Adults

Doug Hoople  
Robb Ott  
Jan Still  
Susan Street  
Ken Wong

Youth

Kyle Okubo  
Jenny Tea  
Robert Whittlesey

Mr. Hoople showed a video highlighting this year's event and thanked everyone for their participation and support. A total of 550 youth and adults participated on 40 teams this year, and 79 community organizations provided donations and support.

(f) Meydenbauer Park Bridge Awards of Excellence

Transportation Director Goran Sparman reported that the Meydenbauer Park Bridge project recently won two additional awards: 1) Honor Award for Excellence in Structural Engineering from the Seattle section of the American Society of Civil Engineers, and 2) Excellence in Concrete Construction award from the Washington Aggregates and Concrete Association.

3. Communications: Written and Oral

Mayor Marshall announced that Council is not allowed to hear testimony regarding the appeal of Michael's Toyota's conditional use permit application.

Siona Windsor, Assistant City Attorney, explained the matter is a quasi-judicial proceeding in which the Council makes a decision as to the rights of specific interested parties under the City's regulations. In these situations, Council must act as judges and maintain fairness and impartiality. Ms. Windsor asked the public to not communicate directly with Councilmembers regarding the appeal.

- (a) Kathy Haggart, President of Bellevue Boys and Girls Club, presented the City with a check for \$1.5 million to be used in the development of the new South Bellevue Community Center.
- (b) Al Close, Safeco Life and Investments, expressed concern regarding the potential for backlit signs on glass-mirrored high-rise buildings. He asked Council to limit signs to internally illuminated signs, excluding LED lighting.
- (c) Kendall Truen and Natalie Newman, representing the newly renamed Bellevue Youth Theatre, invited the public to attend upcoming productions in August: Girl Power (Ivanhoe Performing Arts Theatre) and Prince and the Pauper (Theatre at Meydenbauer Center).
- (d) Leslie Lloyd, President of Bellevue Downtown Association, thanked Council for considering the allowance of signs on high-rise buildings. She discussed the following suggestions from the BDA: 1) signs at the tops of buildings should be subject to a

different size allowance than signs at the base of buildings, 2) the use of color and company logos should be allowed, 3) additional illumination options beyond backlit signs should be considered. On a different note, she thanked the Civil Air Patrol for their help with the recent 6<sup>th</sup> Street Fair. She thanked Bellevue's Police and Fire Departments for their work during the 4<sup>th</sup> of July celebration at Downtown Park and the Bellevue Arts Fair.

- (e) Susie Winkowski, Manager of Vasa Park Resort, commented on a management brief she received from Carol Helland, Land Use Director. She disagreed with a statement in the memo that "picnics have changed." She and her husband worked at the park in the 1970s and picnics were longer and louder at that time. She and her husband have managed the park since 2002 and the noise has not increased since that time. She requested Council's help in resolving this issue and invited Councilmembers to stop by and visit the park.
- (f) Jim Hutchinson, Puget Sound Energy, expressed support for the proposed ordinance amending the sign code to allow signs at the top of high-rise buildings. He recommended changes to the ordinance to allow company logos and box-lit signs with color.
- (g) Anita Neth noted her written comments regarding Vasa Park. She expressed support for the park's activities and encouraged residents and the City to allow picnics and company parties to continue.
- (h) Roger Pratt, a Board representative of Vasa Park Resort, said the park had no history of noise complaints until recently. He said one person called the police department 23 times in one day but that most residents are supportive of the park. He asked Council to consider amending the noise code to allow picnics to continue.
- (i) Bernie Goddard spoke against allowing signage on high-rise buildings in downtown Bellevue.

#### 4. Reports of Community Councils, Boards and Commissions

Al Yuen provided a report on the Transportation Commission, which has been busy working on the 2005-2011 Capital Investment Program (CIP) Plan and the NE 10<sup>th</sup> Street extension project. [A written report is provided in the Council packet.]

#### 5. Report of the City Manager

Steve Sarkozy, City Manager, noted the management brief on page 5-1 of the Council packet regarding an opportunity to participate in a partnership with Bellevue YMCA called *Activate America*. Parks and Community Services Director Patrick Foran explained that the program is focused on helping children and youth develop good lifestyle health habits. Bellevue will be one of 15 to 18 cities to participate in this pilot program. Mr. Foran responded to brief questions from Councilmembers.

Mayor Marshall encouraged coordinated and amplified programs for youths rather than the duplication of programs already offered within the community. Mr. Degginger looks forward to more information following the *Activate America* conference.

Carol Helland, Land Use Director, provided an update on the noise issue at Vasa Park Resort [Management brief provided on page 5-3 of the Council packet]. Representatives of the park have requested an amendment to the Sound Amplification Control Code that would allow them to obtain sound amplification permits for Sunday events. Staff recommends against amending the code.

Staff responded to questions of clarification from Council. In reference to comments during Oral Communications, Ms. Helland noted the code is enforced on a complaint basis and complaints have not been received in the past. However, five complaints from four individuals have been received since July 1.

- ➡ At 9:50 p.m. Deputy Mayor Noble moved to extend the meeting to 10:30 p.m., and Ms. Balducci seconded the motion.
- ➡ The motion to extend the meeting to 10:30 p.m. carried by a vote of 7-0.
- ➡ Mr. Degginger moved to direct staff to review the Sound Amplification Control Code citywide to identify inconsistencies between regulations for private and public parks. Mr. Noble seconded the motion.
- ➡ The motion to direct staff to review the Sound Amplification Control Code citywide to identify inconsistencies between regulations for private and public parks carried by a vote of 7-0.

Mr. Sarkozy noted personnel changes at Bellevue TV, which are described in a management brief on page 5-6 of the Council packet.

At Mr. Sarkozy's request, Planning and Community Development Director Matt Terry discussed the proposed development of an economic development policy addressing direct city investment and regulatory incentives to support private development. Mr. Terry responded to Council's questions.

- ➡ Councilmember Lee moved to initiate the development of an economic development policy that creates an expanded "tool kit" including regulatory incentives and direct City investment. Ms. Balducci seconded the motion.

Dr. Davidson expressed concern about the direct investment of tax dollars in development.

- ➡ The motion to initiate the development of an economic development policy that creates an expanded "tool kit" including regulatory incentives and direct City investment carried by a vote of 7-0.

Diane Carlson, Director of Intergovernmental Relations, recalled Council discussion on July 26 regarding an interest statement and draft letter to be submitted to the King County Task Force on Regional Human Services. She noted changes to the documents based on Council's discussion.

- ➡ Deputy Mayor Noble moved to approve the regional human services interest statement and letter, and Mrs. Marshall seconded the motion.
- ➡ The motion to approve the regional human services interest statement and letter carried by a vote of 7-0.

Ms. Carlson requested Council action on the I-405 Early Environmental Investments interest statement, also discussed with Council on July 26.

Following brief discussion, Mayor Marshall noted Council's support of the interest statement.

6. Council Business

At Mayor Marshall's request, Councilmembers opted to skip Council Business. Ms. Balducci noted Dr. Davidson is celebrating a birthday this evening.

7. Approval of the Agenda

- ➡ Deputy Mayor Noble moved to approve the agenda, and Mr. Lee seconded the motion.
- ➡ The motion to approve the agenda carried by a vote of 7-0.

8. Consent Calendar

Mayor Marshall noted a revised resolution for Agenda Item 8(g) is provided in Council's desk packet.

- ➡ Mr. Noble moved to approve the Consent Calendar, as amended to include the revised resolution under Agenda Item 8(g). Mr. Lee seconded the motion.
- ➡ The motion to approve the amended Consent Calendar carried by a vote of 7-0, and the following items were approved:
  - (a) Resolution No. 7054 authorizing execution of a Memorandum of Understanding with the City of Seattle (Seattle MOU) and authorizing the City of Seattle, as lead agency, to apply for a Community Oriented Policing Services (COPS) Interoperable Communications Grant on behalf of Bellevue as subgrantor for the City of Mercer Island for said grant funds; authorizing the City Manager or his designee to enter into a MOU with the City of Mercer Island (Mercer Island Subgrant MOU) establishing the general terms and conditions of the subgrantor/subgrantee relationship between Bellevue and Mercer Island on which Bellevue is relying in authorizing the Seattle MOU.

- (b) Motion to approve payment of claims for the period July 17 through July 30, 2004, and payroll for the period of July 1 through July 15, 2004.
- (c) Resolution No. 7042 authorizing execution of an agreement with Berkley Risk Administrators Company, LLC, to provide workers compensation claims administration services.
- (d) Resolution No. 7043 authorizing execution of an agreement with Evergreen Adjustment Service, Inc., to provide liability claims adjustment services.
- (e) Motion to award Bid No. 0436 for roof replacement at Fire Station 1 located at 766 Bellevue Way SE to Lloyd A. Lynch, Inc., as low bidder in the amount of \$127,756.22.
- (f) Resolution No. 7055 authorizing the City Manager to sign a distribution agreement with King County to accept specialized equipment from the King County Office of Emergency Management and a corresponding certifications/assurances agreement to support responses to hazardous materials and weapons of mass destruction from federal fiscal year 2003 supplemental funding.
- (g) Resolution No. 7056 authorizing the City Manager and the City of Bellevue Internal Revenue Code Section 457 Plan (457 Plan) Trustees to amend and restate the City of Bellevue Section 457 Umbrella Plan for its deferred compensation plan to the City of Bellevue Section 457 Deferred Compensation Plan.
- (h) Resolution No. 7057 approving a third amendment to the Professional Services Agreement with Graham & Dunn for an amount not to exceed \$55,000 (for a total contract amount of \$255,000) for legal services in the pending litigation with Weinstein, et al, and King County concerning sediment and storm water runoff in the Coal Creek Basin. (USDC No. C03-2343Z)
- (i) Resolution No. 7058 authorizing execution of the Settlement Agreement regarding the Newport Yacht Club and Weinstein v. City of Bellevue and King County, USDC Cause No. C03-2534Z)
- (j) Resolution No. 7059 authorizing execution of a first amendment to the Professional Services Agreement with Preston Gates & Ellis, LLP, for an amount not to exceed \$60,000 (for a total of \$105,000) for legal services in the pending litigation entitled Daimatsu v. Bellevue concerning a property on 116<sup>th</sup> Avenue NE known as Taste of Tokyo.
- (k) Motion to award Bid No. 0431 for the construction of the South Bellevue Community Center (SBCC) located at Eastgate Park, 14509 SE Newport Way, to Cornerstone General Contractors, Inc., as the lowest responsible bidder in the

amount of \$9,674,460.

- (l) Ordinance No. 5537 authorizing execution of a grant contract with the State of Washington Department of Community, Trade, and Economic Development to accept grant funds for the Eastside Narcotics Task Force; establishing a project within the Operating Grants and Donations Fund by appropriating unanticipated and future revenues to that fund; and authorizing expenditures of said grant funds.
- (m) Motion to award Bid No. 0403 for citywide rockeries reconstruction to replace a defective rockery with a soil nail wall and construct a second rockery to address sight distance issues in Bellevue's Yarrow Bay neighborhood to Road Construction Northwest, Inc., as low bidder in the amount of \$439,167. (CIP Plan No. PW-M-12)
- (n) Motion to award Bid No. 0433 for construction of Forest Drive Phase I improvements to Watson Asphalt Co. as low bidder in the amount of \$2,027,137.20. (CIP Plan No. PW-R-128)
- (o) Resolution No. 7060 authorizing execution of an amendment to the Interlocal Agreement with Redmond regarding land use planning and the funding and construction of transportation improvements in the Bel-Red/Overlake Transportation Study (BROTS) area.
- (p) Ordinance No. 5538 authorizing execution of a grant agreement (and supplements, if necessary) with the Washington State Department of Transportation (WSDOT) for the acceptance of \$750,000 in federal Transportation and Community and System Preservation Program (TCSP) funds awarded to Phase I of the NE 10<sup>th</sup> Street Extension Project; amendment of the appropriation to the 2003-2009 Transportation CIP Plan to add the \$750,000 grant; and amendment of the 2003-2009 CIP Plan to create a new CIP project entitled PW-R-149, NE 10<sup>th</sup> Street Extension.
- (q) Ordinance No. 5539 authorizing execution of a grant agreement (and supplements, if necessary) with the Washington State Department of Transportation (WSDOT) for acceptance of a Commute Trip Reduction (CTR) Performance Grant award in support of the Bellevue FlexPass Distribution Incentive Program; entering into an agreement with King County Department of Transportation for acceptance of Congestion Mitigation Air Quality (CMAQ) grant funds and implementation of the Bellevue FlexPass Distribution Incentive Program; and amendment of the 2003-2009 CIP Plan to increase the appropriation to the General CIP Fund and the Transportation Demand Management budget (CIP Plan No. PW-R-87).
- (r) Motion to award Bid No. 0429 for water system security enhancements to PFC, as low bidder, in the amount of \$73,123.39. (CIP Plan No. W-95, Utility Capital Investment Program Fund 4690)



- (s) Motion to award Bid No. 0435 for Factoria Reservoir Improvements to Coatings Unlimited, Inc., as low bidder in the amount of \$356,265.60. (CIP Plan No. W-69, Utility Capital Investment Program Fund 4690)
- (t) Resolution No. 7061 certifying the existence of an emergency and authorizing staff to waive the contract bidding process for construction of emergency public works to address a leaking sewer line along the shoreline of Meydenbauer Bay.
- (u) Compton Trails Detention Vault Repair
  - (1) Motion to award Alternative 2 of Bid No. 0438, Compton Trails detention vault repair, to Diamaco, Inc., as low bidder for this alternative in the amount of \$185,550.78.
  - (2) Ordinance No. 5540 amending the 2003-2009 Capital Investment Program (CIP) Plan by increasing the appropriation in the Utility Storm Drainage CIP fund to fund the Compton Trails Detention Vault Repair, CIP Plan No. D-64, and amending Section 3 of Ordinance No. 5426.

9. Public Hearings: None.

10. Land Use

- (a) Ordinance No. 5541 denying the appeal from a decision of the Hearing Examiner approving the application of Michael's Toyota, Application No. 04-1000086-LB, for a conditional use permit, with conditions, to establish an automobile dealership within the existing Sunset Village Shopping Center and granting the conditional use permit with conditions.

Mayor Marshall said this is a continuation of Council's discussion on July 26.

Ms. Windsor reviewed the rules for the limited public appeal hearing on Hearing Examiner's File No. 04-100086-LB, the application of Michael's Toyota for a conditional use permit to establish an auto dealership within the existing Sunset Village Shopping Center. The appeal of the Hearing Examiner's decision to grant the CUP with conditions was brought by Jennifer Robertson, Scott Robertson, and Michael Alford.

Mayor Marshall asked Councilmembers to disclose any ex parte communications they may have had regarding this matter not previously disclosed on the record. No communications were discussed.

- ➡ Deputy Mayor Noble moved to extend the meeting until midnight, and Mrs. Marshall seconded the motion.
- ➡ The motion to extend the meeting until midnight carried by a vote of 6-1, with Dr. Davidson dissenting.

- ➡ Deputy Mayor Noble moved to adopt Ordinance No. 5541 denying the appeal, and Mr. Degginger seconded the motion.

Mr. Chelminiak does not support the motion. He noted policies EC-18 regarding the retention of retail areas to serve neighborhoods and CP-2 addressing land use changes. Mr. Chelminiak cited policy CP-5 and discussed the circular argument that if a use is consistent with the Comprehensive Plan it should be allowed as a conditional use. He questioned the need for the change in land use and its compatibility with adjacent neighborhoods. Mr. Chelminiak noted that other areas of the city are zoned for car dealerships.

- ➡ The motion to adopt Ordinance No. 5541 carried by a vote of 6-1, with Councilmember Chelminiak dissenting.

Mayor Marshall expressed support for Ms. Balducci's suggestion that staff and the Planning Commission review the Land Use Code for inconsistencies and circular reasoning brought to Council's attention during the review of this appeal. The Council concurred.

#### 11. Other Ordinances, Resolutions and Motions

- (a) Resolution No. 7062 authorizing execution of amendments to the Memorandum of Understanding (MOU) between the City of Bellevue, Bellevue Convention Center Authority (BCCA), and the Port of Seattle (Port) incorporating the findings, conclusions, and recommendations of the Feasibility Report for proceeding with a joint investment in the expansion and repositioning of Meydenbauer Center. *(Council direction was provided at the July 26, 2004, Extended Study Session.)*

Mr. Terry requested Council action on Resolution No. 7062 authorizing the execution of amendments to the Memorandum of Understanding (MOU) between the City of Bellevue, Bellevue Convention Center Authority (BCCA), and the Port of Seattle (Port) for joint investment in the expansion and repositioning of Meydenbauer Center.

- ➡ Deputy Mayor Noble moved to approve Resolution No. 7062, and Mrs. Marshall seconded the motion.

- ➡ The motion to approve Resolution No. 7062 carried by a vote of 7-0.

- (b) Ordinance No. 5542 amending the Bellevue City Code to allow signs at the upper levels of high-rise buildings downtown; amending Sections 22B.10.020, 22B.10.025, and 22B.10.030 of the Bellevue City Code; and establishing an effective date.

Legal Planner Kate Berens noted packet materials beginning on page 11-14 regarding proposed amendments to the sign code to allow signs on the upper levels of high-rise buildings in downtown Bellevue. The ordinance has been revised pursuant to Council's discussion last week.

Staff recommends a prohibition against company logos and a restriction on illuminated signs to allow only halo or backlighting.

Responding to Councilmember Balducci, Ms. Berens noted a requirement that a business occupy at least 200,000 square feet in a building to post the upper-level signage.

Mayor Marshall noted Council's approval of the 200,000-square-foot occupancy requirement.

Moving to the use of color and company logos, Dr. Davidson feels logos should be allowed but took exception to the 300-square-foot size limitation. Councilmembers Balducci, Chelminiak, Lee, and Noble stated agreement with the allowance of logos within the 300-square-foot size allowance. Mr. Lee added that he felt the eight-foot height limit should be allowed for the entire sign and not just the first letter.

Mayor Marshall noted Council consensus regarding the allowance of logos within the 300-square-foot size restriction. Dr. Davidson expressed concern that the size limitation will adversely affect companies with longer names.

Ms. Berens said staff recommends no restriction on the use of color in high-rise signs, particularly since Council favors allowing logos which typically have a specific color.

Mr. Degginger would like the use of colors to be subject to a design review process. Mr. Noble concurred. Ms. Berens said the entire sign will be subject to design review.

Mayor Marshall noted Council concurrence with allowing color in signage, subject to design review.

Mr. Chelminiak feels illumination is difficult to define and suggested a regulation based on the level of lumens emitted or some other technical standard.

Ms. Balducci is not opposed to the internal illumination of signs but cautioned against allowing signs that are too bright. Mr. Noble agreed.

Mayor Marshall noted Council's interest in regulating the intensity of the lighted signs. Ms. Berens said staff will present alternatives and additional information for Council's consideration in September.

12. Unfinished Business: None.

13. Continued Oral Communications

Susie Winkowski, Vasa Park Resort, clarified they had not applied for Sunday amplified noise permits because two Bellevue police officers told her that all her permits would be rejected if she applied for any Sundays. She noted that many downtown restaurants have amplified noise audible beyond their property lines.

14. New Business: None.
15. Executive Session: None.
16. Adjournment

At 11:17 p.m., Mayor Marshall declared the meeting adjourned.

Michelle Murphy  
Deputy City Clerk

kaw